

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE  
Sestak OF Pennsylvania,  
OR H 18 DESIGNEE, DEBATABLE FOR 10 MINUTES.

*Revised #9*

AMENDMENT TO H.R. 1873, AS REPORTED

OFFERED BY MR. SESTAK of Pennsylvania

Strike section 101 and insert the following:

1 SEC. 101. DEFINITIONS OF BUNDLING OF CONTRACT RE-  
2 QUIREMENTS AND RELATED TERMS.

3 Section 3 of the Small Business Act (15 U.S.C. 632)  
4 is amended by amending subsection (o) to read as follows:

5 “(o) DEFINITIONS OF BUNDLING OF CONTRACT RE-  
6 QUIREMENTS AND RELATED TERMS.—For purposes of  
7 this Act:

8 “(1) BUNDLED CONTRACT.—

9 “(A) IN GENERAL.—The term ‘bundled  
10 contract’ means a contract or order that is en-  
11 tered into to meet procurement requirements  
12 that are consolidated in a bundling of contract  
13 requirements, without regard to its designation  
14 by the procuring agency or whether a study of  
15 the effects of the solicitation on civilian or mili-  
16 tary personnel has been made.

17 “(B) EXCEPTIONS.—The term does not in-  
18 clude—

1                   “(i) a contract or order with an aggregate  
2                   dollar value below the dollar threshold  
3                   specified in paragraph (4); or

4                   “(ii) a contract or order that is entered  
5                   into to meet procurement requirements,  
6                   all of which are exempted requirements  
7                   under paragraph (5).

8                   “(2) BUNDLING OF CONTRACT REQUIRE-  
9                   MENTS.—

10                   “(A) IN GENERAL.—The term ‘bundling of  
11                   contract requirements’ means the use of any  
12                   bundling methodology to satisfy 2 or more procurement  
13                   requirements for goods or services  
14                   previously supplied or performed under separate  
15                   smaller contracts or orders, or to satisfy 2 or  
16                   more procurement requirements for construction  
17                   services of a type historically performed  
18                   under separate smaller contracts or orders, that  
19                   is likely to be unsuitable for award to a small  
20                   business concern due to—

21                   “(i) the diversity, size, or specialized  
22                   nature of the elements of the performance  
23                   specified;

24                   “(ii) the aggregate dollar value of the  
25                   anticipated award;

1 “(iii) the geographical dispersion of  
2 the contract or order performance sites; or

3 “(iv) any combination of the factors  
4 described in clauses (i), (ii), and (iii).

5 “(B) INCLUSION OF NEW FEATURES OR  
6 FUNCTIONS.—A combination of contract re-  
7 quirements that would meet the definition of a  
8 bundling of contract requirements but for the  
9 addition of a procurement requirement with at  
10 least one new good or service shall be consid-  
11 ered to be a bundling of contract requirements  
12 unless the new features or functions substan-  
13 tially transform the goods or services and for  
14 which measurably substantial benefits to the  
15 government in terms of quality or price are  
16 identified.

17 “(C) EXCEPTIONS.—The term does not in-  
18 clude—

19 “(i) the use of a bundling method-  
20 ology for an anticipated award with an ag-  
21 gregate dollar value below the dollar  
22 threshold specified in paragraph (5); or

23 “(ii) the use of a bundling method-  
24 ology to meet procurement requirements,

1           all of which are exempted requirements  
2           under paragraph (6).

3           “(3) BUNDLING METHODOLOGY.—The term  
4           ‘bundling methodology’ means—

5           “(A) a solicitation to obtain offers for a  
6           single contract or order, or a multiple award  
7           contract or order; or

8           “(B) a solicitation of offers for the  
9           issuance of a task or a delivery order under an  
10          existing single or multiple award contract or  
11          order.

12          “(4) SEPARATE SMALLER CONTRACT.—The  
13          term ‘separate smaller contract’, with respect to  
14          bundling of contract requirements, means a contract  
15          or order that has been performed by 1 or more small  
16          business concerns or was suitable for award to 1 or  
17          more small business concerns.

18          “(5) DOLLAR THRESHOLD.—The term ‘dollar  
19          threshold’ means \$65,000,000, if solely for construc-  
20          tion services.

21          “(6) EXEMPTED REQUIREMENTS.—The term  
22          ‘exempted requirement’ means a procurement re-  
23          quirement solely for items that are not commercial  
24          items (as the term ‘commercial item’ is defined in

1       section 4(12) of the Office of Federal Procurement  
2       Policy Act (41 U.S.C. 403(12)).

3       “(7) PROCUREMENT REQUIREMENT.—The term  
4       ‘procurement requirement’ means a determination  
5       by an agency that a specified good or service is  
6       needed to satisfy the mission of the agency.”.